

**SUBCHAPTER 1250**

**OVERSEAS ALLOWANCES AND DIFFERENTIALS**

**TABLE OF CONTENTS**

<b><u>SECTIONS</u></b>	<b><u>Page</u></b>
A. Purpose	1250-1
B. Applicability and Scope	1250-1
C. Definitions	1250-1
D. Policy	1250-2
E. Procedures	1250-3
F. Responsibilities	1250-9

## **SUBCHAPTER 1250**

### **OVERSEAS ALLOWANCES AND DIFFERENTIALS**

- References:**
- (a) Department of State, Standardized Regulations (Government Civilians, Foreign Areas)
  - (b) Section 3657 of title 22, United States Code
  - (c) Joint Travel Regulations, Volume 2, “Department of Defense Civilian Personnel”
  - (d) through (n), see enclosure (1)

#### **A. PURPOSE**

This Subchapter:

1. Implements DoD policy, delegates authority, assigns responsibilities, and authorizes, under references (a) through (k), the payment of allowances and differentials to DoD civilian employees who are U.S. citizens and who are located in foreign areas and Panama.
2. Cancels reference (l) and (m).

#### **B. APPLICABILITY AND SCOPE**

This Subchapter applies to appropriated fund employees and, as provided in subparagraph E. 1. (a), to Junior Reserve Officers’ Training Corps Instructors. Application of reference (a), hereafter referred to as DSSR and as supplemented herein, is mandatory and will be observed with respect to those allowances and differentials that are authorized for payment within the Department of Defense.

#### **C. DEFINITIONS**

1. **Family Member.** Family member is defined in Section 040(m) of the DSSR (reference (a)).
2. **Foreign Area.** Foreign area is defined in Section 040(f) of the DSSR (reference (a)).
3. **Local area of work.** Provisions outlined in Section C2400 of the Joint Travel Regulations (JTR), volume 2, (reference (c)) will be followed in determining the local area of work.
4. **Locally Hired.** For the purpose of this Subchapter, locally hired refers to the country in which the foreign post is located.
5. **Management Generated Action.** If a DoD activity requires an employee to make a geographic or permanent change of station (PCS) move as a condition of employment (e.g., RIF,

transfer of function, agency career development program, or agency directed placement), it will regard such movement as being in the interest of the Government and generated by management. If an employee actively pursues, solicits, or requests a position change resulting in the geographic move of such employee from one permanent duty station, such a move is primarily for the convenience and benefit of the employee and is not considered a management-generated action. The provisions outlined in JTR, volume 2, paragraph C4108 (reference (c)), will be used to determine if the move meets the criteria of a PCS when the old and new permanent duty stations are located within the same city or area.

6. **United States.** Any of the 50 states, Puerto Rico, any U.S. possession, and the former Canal Zone.

7. **U.S. Hire.** A person who resided permanently in the United States, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the former Canal Zone, or a possession of the United States from the time he or she applied for employment until and including the date he or she accepted a formal offer of employment.

#### **D. POLICY**

It is DoD policy under DoD Directive 1400.25 (reference (n)) that:

1. Overseas allowances and differentials (except the post allowance) are not automatic salary supplements; nor are they entitlements. They are specifically intended to be recruitment incentives for U.S. citizen civilian employees living in the United States to accept Federal employment in a foreign area. If a person is already living in the foreign area, that inducement is normally unnecessary.

2. Individuals authorized to grant overseas allowances and differentials shall consider the recruitment need, along with the expense the activity or employing agency will incur, prior to approval.

3. Individuals shall not automatically be granted these benefits simply because they meet eligibility requirements.

4. When suitable and fully adequate Government quarters are available and offered to the employee, but the employee elects not to accept them, the employee shall not be eligible to receive the Living Quarters Allowance (LQA) for the rental or purchase of privately owned quarters except when there is a waiting list of eligible personnel available to occupy the same category of quarters offered to the employee, or quarters cannot be assigned on a permanent basis. The employee may be paid the Temporary Quarters Subsistence Allowance (TQSA) for use of commercial lodging even if adequate Government transit quarters are available. In Panama (the former Canal Zone area), provisions of the JTR, volume 2 (reference (c)) for payment of Temporary Quarters Subsistence Expense (TQSE) apply in lieu of TQSA.

5. The LQA and TQSA allowances are designed to cover substantially all average allowable costs for suitable, adequate quarters, including utilities. They are not intended to reimburse 100 percent of all of an employee's quarters costs or to provide ostentatious housing or extravagant meals.

6. Program administrators will assure that each Foreign Allowances Application, Grant, and Report (SF-1190) submitted is accompanied by receipts, as required by the DSSR (reference (a)), that support the amounts claimed. Officials approving allowances claims may also require receipts for meals claimed under TQSA which they consider extravagant. If an employee fails to submit receipts, allowance payments will be suspended until supporting documentation is submitted. Officials approving allowance claims for payment will verify that amounts claimed are supported by receipts and will not approve payments that are not supported by documentation.

7. Program administrators will establish a suspense system to follow-up on events that affect allowance payments (e.g., age of dependent children, expiration of the 10-year cost recovery period for personally owned quarters, expiration of lease or rental contracts, early return of dependents, and renewal agreement travel).

## **E. PROCEDURES**

1. **Allowances Authorized.** All of the allowances authorized by the DSSR (reference (a)) are authorized for DoD civilian employees living in foreign areas except the wardrobe portion of the Home Service Transfer Allowance, the wardrobe portion of the Foreign Transfer Allowance, and Education Allowance (except transportation of student family members). Allowances for employees in Panama are covered in subparagraph E.2. below.

### **a. Quarters Allowances**

(1) **Determination of Need to Grant Allowances.** Individuals authorized to approve overseas allowances shall determine whether the allowance is necessary for recruitment purposes. If so, the applicant's eligibility, as specified in Section 031.1 of the DSSR (reference (a)), will be determined.

### **(2) Eligibility**

(a) Under the provisions of Section 031.12b of the DSSR (reference (a)), former military and civilian members shall be considered to have "substantially continuous employment" for up to 1 year from the date of separation or when transportation entitlement is lost, or until the retired and/or separated member or employee uses any portion of the entitlement for Government transportation back to the United States, whichever occurs first. In unusual cases, an employee may be considered to have substantially continuous employment even though a portion of the entitlement (e.g., early return of a family member or movement of household goods from nontemporary storage) has been used. Satisfaction of DSSR paragraph 031.12b alone will not make the former military or civilian employee eligible. The employee must also satisfy the requirements of DSSR paragraph 031.12a, to establish eligibility. Living Quarters Allowance

(LQA) payments during the summer recess period to Junior Reserve Officers' Training Corps (JROTC) Instructors employed by the Department of Defense Dependents Schools (DoDDS) shall be processed in accordance with Federal Services Impasses Panel decision 92 FSIP 17 and 103 (reference (d)), and subparagraph E.1.a.(5) of this Subchapter. LQA payments to DoDDS JROTC Instructors will not be paid when suitable and fully adequate government quarters are occupied by the instructor during the summer recess period.

(b) **Waivers.** The requirements of Section 031.12b of the DSSR (reference (a)), may be waived in individual cases when unusual circumstances exist. If the Major Command recommends a waiver, the case shall be forwarded to the serviced DoD Component headquarters for consideration by the agency head. All other requests should be returned by letter to the employee explaining the reasons for non recommendation. Head-of-agency authority may be redelegated to the appropriate Major Command. Officials identified in paragraph F.1.(a) may waive DSSR section 031.12b requirements for locally hired U.S. citizen employees when, but for the conditions surrounding the employment, the employee would be residing in the United States. One of the following situations must have occurred for this waiver:

- 1 The sponsoring spouse dies.
- 2 Sponsoring spouse becomes physically or mentally incapable of continued employment with the Government.
- 3 The couple is divorced or legally separated. (A legal separation is deemed to exist at such time as either the employee or spouse shall have initiated legal action to dissolve the marriage or one separates from bed and board short of applying for a divorce.)
- 4 Sponsoring spouse left the post or area permanently.
- 5 Spouses could not maintain a common dwelling due to the relocation of either spouse's work place.
- 6 The employee is an incumbent of a position designated as emergency-essential in accordance with DoD Directive 1404.10 (reference (e)).

In addition, in situations 1 through 5, the employee must have entered the country in which the foreign post is located as the spouse of a sponsor who was eligible for the quarters allowance. In situations 3, 4, and 5, above, the LQA will be stopped should the couple remarry, reconciliation occur, or the sponsoring spouse return to his or her post or commuting area whether or not the sponsoring spouse retains his or her eligibility for a quarters allowance. Waivers granted for events 1 through 5 shall last no longer than one year from the date eligibility is established, unless extended by the appropriate Major Command. In situation 6, the waiver is effective only for the period during which a crisis situation is declared to exist under reference (e).

(c) Except for the circumstances described in (b) 2 above, waiver of Section 031.12b, DSSR (reference (a)), will not be made for a married employee who accompanied or followed his or her spouse to a foreign area and still resides with that spouse.

(d) Section 031.12b of the DSSR (reference (a)) will be waived for locally hired U.S. citizen employees who have, immediately prior to appointment, been directly employed by the U.S. as foreign nationals under third-country citizen contracts or agreements that provided them with a living quarters allowance or housing at no cost.

(e) When approval is granted to waive Section 031.12b of the DSSR (reference (a)), the effective date of the LQA approval will be the date eligibility is established by the approving official or the date quarters are occupied, whichever is later.

(f) The appropriate Major Command decides whether an employee acquires an LQA under Section 031.12c of the DSSR (reference (a)), when the assignment is within or between countries. This authority may be redelegated to the officials identified in subparagraph F.1.a., of this Subchapter. Section 031.12c provides that an LQA may be given to an employee recruited outside the United States if, "as a condition of employment by a Government agency, the employee was required by that agency to move to another area, in cases specifically authorized by the head of the agency." A "condition of employment," if not fulfilled, results in failure to gain or retain employment. Section 031.12c, DSSR (reference (a)), shall be applied when an employee is relocated to another area by a management-generated action. It also shall be applied when management requests that an employee not now eligible for LQA relocate to another area. A management request that an employee relocate is considered a management-generated action. A move through a voluntary reassignment program is not considered to be a management-generated action. To make a determination under Section 031.12c of the DSSR (reference (a)), the following tests must be applied:

- 1 Will employment be ended if the employee fails to accept relocation?  
If the answer is yes,
- 2 Is the relocation caused by a management-generated action?  
If the answer is no,
- 3 Must management request an employee not now in receipt of LQA to relocate to another area?

(g) To grant an allowance under Section 031.12c of the DSSR (reference (a)), and its implementing guidance, the answer must be affirmative to questions (f) 1 and 2 or to question (f) 3, above. Selecting a person to be relocated is based on regulatory guidance, leaving management little option to recruit a new employee or select an employee receiving an LQA. There are also certain common sense considerations. If an employee's new duty station is within the local area of work of the previously established residence, no LQA will be authorized. If the employee is joining a spouse at a new duty station who is eligible for LQA, the reassigned employee will not be given the allowance. If the management-generated action would not cause

employment to end if the employee fails to accept relocation, the DoD Component may approve LQA if a determination is made that there is no choice but to move the employee for official reasons (e.g., mobility is inherent in the functional area).

(h) Although the appropriate Major Command would normally be responsible for servicing both the old and new positions, there may be times when two Major Commands or possibly another Military Department are involved. In such situations, the gaining command will make the final determination. The losing command, however, shall request an advance finding from the gaining command to advise the employee as to LQA benefit as a result of the movement.

(i) Nonappropriated fund employees who were eligible for a living quarters and related allowances upon their initial hire and who are appointed to an appropriated fund position without a break in service, continue to be eligible for allowances in accordance with Comptroller General Decision B-184972, Angelo Raffin, Air Force (reference (f)), provided they had received the allowances for at least one year.

(3) **Shared Quarters.** Employees sharing quarters with one or more individuals who do not meet the definition of family member may be reimbursed only for their portion of the total cost of the quarters. For example, if an allowance-eligible employee shares quarters with another individual, the employee's fair portion of the total annual allowable expenses should be 50 percent. The name(s) of the person(s) with whom the employee is sharing quarters or to whom the employee is subletting a portion of the quarters shall be entered on the Foreign Allowances Application, Grant, and Report (SF 1190).

(4) **Personally Owned Quarters (POQ).** The annual rent payable for Personally Owned Quarters is based on the purchase price or appraised value of the property, converted to U.S. dollars at the exchange rate in effect at the time of purchase. Employees who own, or are purchasing a POQ, are not eligible for additional quarters allowances under a rental contract if the POQ is within the employee's local area of work.

(5) **Special Rules for Department of Defense Dependents Schools (DoDDS) Educators.** Subject to reference (g), payment of the LQA to an educator who is eligible under the DSSR (reference (a)) to receive that allowance, or to occupy rent-free government quarters in lieu of LQA, during the summer recess shall be governed by the following:

(a) If the educator is transferred, payment of the allowance shall be the responsibility of the losing activity up to the effective date of the transfer; thereafter, it shall be the responsibility of the gaining activity.

(b) If it is determined that the educator's services will not be required for the following year, the educator may receive payment of the LQA until his or her last day in a duty status. The allowance may be continued up to 14 calendar days or the date of departure, whichever is earlier, for an educator who is required to await authorized transportation if appropriate documentation is provided by the transportation office.

(c) In accordance with Section 723.1 of the DSSR (reference (a)), and 20 U.S.C. 905 (reference (g)), if an educator fails to report for service at the beginning of the next school year as agreed, or fails to complete the full obligation for the next school year for reasons unacceptable to management, the educator shall be obligated to repay the LQA received (or value of Government quarters occupied, or cost of storage furnished) up to the effective date of separation during the recess period. If the failure to report or to complete the school year is beyond the educator's control and acceptable to management, collection action may be waived.

(d) Under the provisions of 20 U.S.C. (reference (g)), educators are in a nonpay status during winter, spring, summer recess periods, Federal holidays, and all other non-workdays. Accordingly, LQA shall be continued in the public interest for eligible educators during official recess periods within the school year, not in excess of 30 calendar days, provided the educator is in a pay status immediately before and after the school recess period.

**b. Post Allowance**

(1) **Eligibility.** Part-time, intermittent, and U.S. family member summer/winter hire employees are not eligible. The post allowance is paid to eligible employees even though they may not be eligible for post differential or other allowances.

(2) **Wage Grade Employees.** The annual rate is determined by multiplying the basic hourly rate by 2087. The basic rate is exclusive of overtime, shift differentials, holiday premium pay, or any other differentials and allowances.

(3) **DoDDS Educators.** In accordance with Section 724 of the DSSR (reference (a)) and 20 U.S.C. 906 (reference (g)), the total annual amount of post allowance payable is divided by the number of calendar days in the school year to obtain the daily rate. If a teacher is employed in another position during any recess period between two school years, the allowance during the recess period shall be based on the position employed in during the recess period.

**c. Education Allowance.** The education allowance is not authorized for payment in the Department of Defense. Education of DoD family members whose sponsor is stationed in a foreign area is provided mainly in DoD-operated overseas schools. When these schools are either unavailable or inappropriate, education of family members must be arranged through the DoD Dependents School System. Reimbursement for the transportation of student family members, as provided by Section 277.2 c. of the DSSR (reference (a)), is authorized under the following conditions:

(1) Reimbursement is authorized for transportation costs of dormitory student family members of eligible employees between the employee's overseas duty station and the DoD-approved school.

(2) Reimbursement shall be limited to that necessitated by the school's vacation closing schedule. Students may be authorized to travel to a location other than their sponsoring employee's post of duty, provided that the sponsoring employee states in writing to the authority



concerned, that the travel to the other location is to permit the student to join the family at that location.

(3) Reimbursement shall be limited to what it would have cost the government for travel from the school to the employee's post of duty by the authorized mode of transportation. Only those employees who are eligible for the LQA may be reimbursed for family member education travel.

d. **Advance in Pay**

(1) Procedures for obtaining an advance in pay when employees are proceeding to or arriving at a post of assignment in a foreign area are contained in DoD 7000.14R (reference (h)).

(2) Repayment shall be made by payroll deduction over a maximum of 26 pay periods, or partial, or lump-sum payments. Payroll deductions shall begin the first pay period after receipt of the advance or following arrival at the foreign post, whichever is later.

2. **Allowances Authorized in Panama**

a. **Quarters Allowance.** DoD activities in the Republic of Panama may grant a quarters allowance to:

(1) Any employee who possesses a transportation agreement, is a citizen of the United States, and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other Government Agency in the area then known as the Canal Zone;

(2) Any other employee who is a citizen of the United States and who, on or after October 1, 1979, has been recruited from within the United States and for whom Government-owned or leased quarters are not made available. For the purpose of this subparagraph, an employee recruited from within the United States shall include any employee who transfers from a foreign area, the Commonwealth of Puerto Rico, or a possession of the United States, as long as the employee was recruited originally from the United States by a U.S. Government Agency and has had substantially continuous service in the foreign area which provided for the employee's return transportation to the United States, the Commonwealth of Puerto Rico, or a possession of the United States; and,

(3) Any employee who is required, as a condition of employment by a Government Agency, to move to another area in cases specifically authorized by the head of agency. To determine eligibility, the criteria in subparagraphs E.1.a(1)(f) and E.1.a(1)(g) above, will be used.

(a) The amount of quarters allowance payable shall be the amount by which the lesser of 1 or 2, below, exceeds the estimated total cost of rent and utilities that the employee would be obligated to pay if Government-owned or leased quarters had been provided on a rental basis:

1 The actual expenses for rent and utilities incurred by the employee while occupying quarters other than Government-owned or leased quarters.

2 The maximum amount that would be authorized for such employee under the DSSR (reference (a)), if the employee is covered by these regulations.

(b) An advance payment of the quarters allowance is authorized and shall be paid under the provisions of Section 113.3, DSSR (reference (a)).

b. **Tropical Differentials/Overseas Panama Area Differential.** 35 CFR 251.31 (reference (i)), provides guidance on the administration of tropical differentials. 35 CFR 251.32 (reference (i)) provides guidance on the administration of Overseas Panama Area Differential.

## **F. RESPONSIBILITIES**

### **1. Delegation of Authority**

a. Except as otherwise provided in this Subchapter, the authority to decide an employee's eligibility for an allowance or differential is delegated to those officials with appointing authority who are responsible for administering the program and submitting the required reports. The authority may be redelegated.

b. Except as otherwise provided in subparagraph E. of this Subchapter, the authority to make head-of-agency waivers to Sections 031.12b and c of the DSSR (reference (a)), are delegated to the Secretaries of the Military Departments, Directors of Defense Agencies with independent appointing authority, and the Office of the Secretary of Defense, Director of Administration and Management. In those instances where an employee is not represented by a Military Department or Major Command for the granting of waivers as described in subparagraph E., the appropriate DoD Agency may grant waivers under Sections 031.12b and c of the DSSR (reference (a)). In both cases, the authority may be redelegated to the lowest practicable level.

c. **Head-of-Agency.** Except as provided in subparagraph F.1.d. below, the authority of the head of the agency as described in Section 013 of the DSSR (reference (a)), is delegated to the Director, Civilian Personnel Management Service, who may redelegate the authority as necessary.

d. A representation allowance or official residence expense allowance may be approved only by the Deputy Assistant Secretary of Defense (Civilian Personnel Policy). Requests must be fully justified and submitted through DoD Component channels.

e. Authority to make head-of-agency determinations on payment of a Separate Maintenance Allowance, including changes of election, and waivers of indebtedness for advance payments granted under 5 U.S.C. 5522 (reference (j)), is delegated to the Secretaries of the Military Departments, Directors of Defense Agencies with independent appointing authority, and

the Office of the Secretary of Defense, Director of Administration and Management. It may be redelegated.

2. **Distribution and Revisions.** The DSSR (reference (a)) and changes thereto should be filed in every Civilian Personnel Offices/Human Resource Offices (CPO/HRO). All requests for revisions to this Subchapter and the DSSR should be submitted through DoD Component channels to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy).

3. **Waiver of Claims.** Claims resulting from erroneous disbursements of pay and allowances may be processed in accordance with DoD 7000.14-R (reference (h)). The foreign post and special incentive differentials meet the definition of pay under 5 U.S.C. 5584 (reference (k)).